

**IN THE UNITED STATES DISTRICT COURT FOR THE  
EASTERN DISTRICT OF VIRGINIA  
NORFOLK DIVISION**

**WAYNE B. LYNCH, Administrator of the  
Estate of DONOVAN W. LYNCH,  
Deceased**

**Plaintiff,**

**v.**

**SOLOMON D. SIMMONS, III**

**and**

**CITY OF VIRGINIA BEACH**

**Defendants.**

**Civil Action No. 2:21-cv-341**

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**DEFENDANT CITY OF VIRGINIA BEACH’S MOTION TO DISMISS**

NOW COMES Defendant City of Virginia Beach (“City”), by counsel, and hereby files its Motion to Dismiss Plaintiff’s claims against the City, pursuant to Rule 12(b)(6) of the Federal Rules of Civil Procedure, on the grounds that the Complaint fails to state a claim against the City upon which relief can be granted. The reasons and grounds supporting this Motion are more specifically set forth in the accompanying Memorandum of Law.

WHEREFORE, Defendant City of Virginia Beach respectfully moves this Court to enter an Order granting this Motion and dismissing with prejudice Plaintiff’s claims against the City and for such other and further relief as the Court deems appropriate.

Respectfully submitted,

CITY OF VIRGINIA BEACH

By: /s/ Joseph M. Kurt  
Of Counsel

**Mark D. Stiles (VSB No. 30683)**

City Attorney

**Christopher S. Boynton (VSB No. 38501)**

Deputy City Attorney

**Gerald L. Harris (VSB No. 80446)**

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*Attorneys for Defendant City of Virginia Beach*

### **CERTIFICATE OF SERVICE**

I hereby certify that on the 19th day of July 2021, I will electronically file the foregoing with the Clerk of the Court using the CM/ECF system, which will then send a notification of such filing (NEF) to the following:

Joshua J. Coe, Esq.

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*Attorneys for Plaintiff*

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